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RULES GOVERNING PAROLE IN NORTH DAKOTA

PENOLOGY.

Assault by a Life Prisoner Made Capital.—"A California statute provides that 'Every person undergoing a life sentence in a state prison of this state who, with malice aforethought, commits an assault upon the person of another with a deadly weapon or instrument, or by any means or force likely to produce great bodily injury, shall be punishable with death.' This is constitutional and does not deny the life prisoner the equal protection of the law, says the Supreme Court of the United States, in *Finley v. People*. The question is to be tested by considering whether there is a basis for the classification made by the statute. Applying that test, the statute is valid. The classification of the statute in question is not arbitrary, but is based upon valid reasons and distinctions. Life termers, while within the prison walls, constitute a class by themselves—a class recognized as such by penologists the world over. Their situation is legally different. Their civic death is perpetual. Manifestly there could be no extension of the term of imprisonment as a punishment for crimes they might commit, and whatever other punishment should be imposed was for the legislature to determine." From *American Law Review*, July-August, 1912, Vol. XLVI, No. 4

Convict Parole Unconstitutional—A Correction.—At page 461 of the September number of this Journal is a note to the effect that the parole law of Pennsylvania is unconstitutional. Mr. Edwin M. Abbott writes that the statement is misleading. Pennsylvania had an Indeterminate Sentence and Parole Act passed in 1909, which act was declared by Judge Sulzberger in July of this year, as unconstitutional. This decision, which has been appealed by the commonwealth, will undoubtedly be upheld by the Appellate Court of the state. The act, says Mr. Abbott, was clearly unconstitutional in many ways, but the court declared it unconstitutional because it had a defective title. This, however, does not do away with probation, parole, and indeterminate sentences in Pennsylvania. Since Mr. Abbott secured the passage of the act in 1911, it has been practically declared constitutional, and it is under this act that the court of the state now operates successfully.

The judges in the state of Pennsylvania, in many instances, refuse to sentence under the act of 1909, for the act simply made them automatons, but under the act of 1911, they are following the mandates of the provisions and everybody is satisfied except a few who think that the judges should not sentence in any case. This act has been having beneficial effects in the state prisons.

R. H. G.

Rules Governing Parole in North Dakota.—*Sec. 1.* No inmate shall be paroled until he has served the minimum term provided by law, and has been in the first grade for a period of at least six months, and has fully complied with Article No. 9 of the Revised Codes of 1905.

2. No inmate shall be released on parole until satisfactory evidence has been furnished the board of experts in writing, that employment has been secured for such inmate from some responsible person, certified to be such by the judge of the county court of the county where such person resides.

The application shall embrace a certificate from the Prosecuting Attorney of the County from which the inmate was sent, showing that there is no other